

Remarks/Arguments

Claims 1-14 are pending in this application. Claims 1, 5, 9 and 11 are currently amended. Applicant submits that such amendment places the application in condition for allowance and thus, requests such amendment be entered. No new matter has been added.

The Examiner has rejected claims 1-14 under 35 U.S.C. § 103(a) as obvious in light of U.S. Patent No. 6,256,712 to Challenger et al. ("Challenger et al."). In order to establish the obviousness of a claim, the Examiner must consider all of the claim limitations in determining patentability of that claim against the prior art. M.P.E.P. § 2143.03. All of Applicant's claims, either directly, or through dependency, have recitations that cannot be found in Challenger.

Nowhere does Challenger discuss any of the following claimed limitations: 1) receiving an application protocol request from a client application; 2) having the server respond to this request by sending a portion of the response that changes to the client application; and 3) retrieving a part of the response that is static from cache in an operating system kernel and *then* sending the part that is static to the client application. Rather, Challenger only discusses "maintaining updated caches and making consistent updates" to these caches, which are located on a server. *See* Challenger, column 2, lines 53-55.

All of Applicant's claims recite "receiving from the client application" an "application protocol request" and a "response that can be displayed as a combination of a portion of the response that changes and a part of the response that is static." Challenger, by contrast, does not even mention any application protocol request, let alone discuss responding to application protocol requests. Challenger only discusses combining objects into larger objects as an update mechanism for caches. There is simply no need for an application protocol request from a client in Challenger because Challenger teaches that cached objects on a server are "immediately replaced with fresh objects" when they become stale "rather than deleting stale items from the cache." (*See* Challenger col. 2, line 66 - col. 3, line 1). Additionally, Challenger does not mention static or dynamic portions of responses or even Web pages, only completely static or completely dynamic Web pages.

All of Applicant's claims recite the retrieval of the part of the response that is static from a cache disposed in an operating system kernel. Applicant is at a loss to find this concept disclosed in Challenger. The portions of Challenger cited by the Examiner discuss either a proxy

cache or a processor cache, neither one of which resides in a kernel. A proxy cache resides in user space and a processor cache resides inside the processor hardware. Challenger does not even mention a kernel, let alone an in-kernel cache. The Examiner has suggested that a kernel was “inherent” in Challenger because Challenger mentioned a “computer” and all current computers use a kernel. However, even if this was true, Challenger still does not mention the in-kernel cache or the very specific concept of retrieving a part of a response that is static from a cache disposed in an operating system kernel. For a proper rejection, it is not enough for the Examiner to analogize specific claim recitations with portions of the cited reference in a conclusory fashion. The Examiner has suggested that some unwritten “spirit of the design” behind a cited reference can be used to reject a claim over the cited reference under Section 103. However, for a proper rejection under Section 103, the Examiner must consider all of the claim limitations in determining patentability of that claim against the prior art. M.P.E.P. § 2143.03. The Examiner has failed to meet this burden.

Further, Challenger does not discuss “sending the portion of the response that changes to the client application and *then* retrieving the part of the response that is *static*. . . .” Challenger is only interested in constantly updating data content that has *changed* and validating WebPages on the server. Further, Challenger does not discuss sending a portion of the response that changes and thereafter retrieving the portion of the response that the static is retrieved. Challenger only discusses validating whole Web pages. Challenger does not discuss a response to a request and certainly does not discuss portions of a response sent at separate times.

Moreover, Challenger only discloses invalidating cached objects in databases. For example, Challenger discusses invalidating cached objects having dependencies on records which have changed, where the records are portions of the database. However, nowhere does Challenger teach or suggest sending a portion of a response that changes and then retrieving and sending a portion of the response that is static, as recited in the claims. As admitted by the Examiner, Challenger does not disclose a response. However, the Examiner suggests the Web pages in Challenger can be interpreted as such response. Yet, Challenger does not teach or disclose creating a Web page with a portion that changes and a portion that is static as a response to a request. Challenger only discloses completely dynamic or completely static Web pages. In light of the above, Challenger cannot render Applicant’s claims obvious.

For at least the above reasons, Applicant submits that every element of any claim is not taught or suggested by the cited art. Applicant believes he has responded to the concerns raised by the Examiner. Reconsideration of this application, as amended, is hereby requested.

Respectfully submitted,

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